

During the annual ethics training, many of you asked about the consequences of violating ethics rules. The real-life examples below answer those questions in a graphic manner. The lesson for all of us is: if we are not sure of a rule, or not sure as to how to apply the rule to a particular situation, we must seek the advice of our Ethics Counselors before we act because the rules are enforced, sometimes by the criminal process. In various places, you will find my editorial comments in brackets [**like this**].

U.S. Government IMPAC Credit Card Abused by Air Force Employees

Three former civilian employees from Barksdale Air Force Base, Louisiana, were charged with conspiracy to defraud the Government (18 U.S.C. 371) and conversion of U.S. property for personal use (18 U.S.C. 641).

The employees used the U.S. Government IMPAC credit cards to purchase personal items which included extensive home improvement products, and car-related materials. One of the employees certified on official documents that purchases on the IMPAC credit card were properly used by members of the reserve unit.

One of the employees was sentenced to one year and one day, and the other employees were sentenced to six months in a Federal halfway house and were required to make full restitution.

[Other ways that an employee can go wrong with the IMPAC credit card include: the employee buys merchandise from a company in which the employee owns more than \$5,000 worth of stock, e.g., Office Depot; or the employee purchases merchandise from a store employee who is his or her spouse; or the employee accepts bonus points or some other discount or benefit for the AMC purchases made at a particular store.]

Government Maintains Tough Stance on Improper Use of Frequent Flyer Miles [the "everybody else does it" excuse doesn't fly!]

A Department of Justice employee received a one month suspension for using frequent flyer miles that he earned through his official Government travel to permit him, members of his family, and an acquaintance to take 17 trips on Continental Airlines. The trips were valued at \$31,534.

In the employee's appeal he did not deny the trips were taken but argued that there was no intent to misuse Government property. Additionally, he alleged that it was an unofficial policy in the Guam office which allowed personal use of frequent flyer miles accrued on official business [**the "everybody else does it" argument**]. The employee

cited two younger employees who had used frequent flyer miles but had no action taken against them by the Department of Justice.

The Merit Systems Protection Board upheld the one month suspension imposed by the Department of Justice, and concluded that the circumstances surrounding the misconduct of other employees were not sufficiently similar, and that the rationale that others had used frequent flyer miles did not constitute a mitigating factor.

SEC Attorney Sentenced for Switching Sides after Leaving Government

A former attorney with the Securities and Exchange Commission (SEC) was convicted for violating 18 U.S.C. 207(a), which prohibits former Government employees from communicating with the Government with regard to matters they worked on as a Government employee.

The SEC attorney was responsible for investigating stock promoters who were promoting Integrated Resources Technologies, Inc. (IRTI). Upon departure from the SEC, the attorney was hired by the stock promoters to perform legal work for companies owned by them, including IRTI. The attorney, in his capacity as counsel for, and director of IRTI, responded to a subpoena, and communicated with SEC officials on behalf of IRTI.

The attorney was sentenced to one year of imprisonment for this post-employment violation of a criminal statute. [**This law applies to all former officers and employees. It does not prohibit them from going to work for anyone, even if they had worked on, or were responsible for, a particular matter involving this company. What they cannot do, however, is represent that company back to the Federal government on the same particular matter.]**

Former Postmaster General Pays Settlement to End Conflict of Interest Investigation

A former Postmaster General of the United States agreed to pay a \$27,550 settlement to end a complaint brought by the Department of Justice pertaining to a conflict of interest because of his holdings in Coca-Cola.

The complaint arose while the Postal Service was exploring a potential strategic alliance between the Postal Service and Coca-Cola. The Postal Service Board of Governors had the authority to approve the strategic alliance, and the Postmaster General's role was to advise the Board of Governors with regard to their consideration of strategic alliances. The Postmaster General rendered advice to the Board even though he owned shares of Coca-Cola stock and therefore had a personal financial interest in the decision.

The Postmaster General was charged specifically with violating 18 U.S.C. 208, a criminal statute that prohibits an employee from participating personally and substantially, as a Government official, in a particular matter in which he or she has a financial interest. [**The PMG argued that no decision was ever made to benefit Coca-Cola, and he never benefited from this. But, that is not what the law prohibits -- it prohibits personal and substantial participation on official matters that affect one's financial interests. The PMG participated in meetings where this proposed alliance or partnership with Coca-Cola was discussed. He violated the law.]**

Former EEOC Chairman Pays Settlement Regarding Financial Disclosure Form

The former chairman of the Equal Employment Opportunity Commission settled a lawsuit brought by the Department of Justice for \$4,000. The lawsuit alleged that the chairman did not file a financial disclosure report for the 1992 calendar year and the portion of 1993 that he was in Government service (his position terminated in April 1993) [a combined annual and termination report]. After leaving Government service, the former chairman did not respond to four requests to file his financial disclosure report.

Official Prosecuted for Accepting Payments for Speeches

A high-ranking official at the National Science Foundation (NSF) agreed to pay \$24,900 to settle a complaint alleging that he supplemented his Federal salary by accepting payment for presenting speeches he made as the official representative of the NSF. From 1993 to 1996 the official received \$500 from Loyola University, \$2,000 from Michigan State University (\$600 for travel expenses), \$2,000 from a research society, and \$1000 from The City University of New York. He would not have been invited to speak had it not been for his Government position. [**The "Standards of Ethical Conduct" prohibit us from accepting compensation for speaking, teaching and writing that relates to our official duties. The activity is considered to "relate to our official duties" if we would not have been invited but for our Governmental position, or if it deals in significant part with a matter to which we are currently assigned, or to which we were assigned within the last year, or any ongoing policies, programs or operations of the agency.]**

The Department of Justice charged that the NSF official failed to disclose the four honoraria payments on his annual public financial disclosure report. In addition, the NSF official allegedly failed to disclose and process reimbursements for travel paid by non-Government sources. [**Another financial disclosure report violation - If you file an SF 278 or OGE Form 450 financial disclosure report, sources of income in general, and honoraria in particular, must be reported.]**

Admiral Forced to Retire After Steering Military Contracts to Lover

A Navy admiral was formally reprimanded, fined, and forced to retire as a Captain after steering military contracts to a woman with whom he was having an affair. The officer was charged with violating the Uniform Code of Military Justice as well as other Federal ethics rules.

The Navy admiral improperly directed \$150,000 worth of training contracts to the woman and also supplied nonpublic information to her for use in obtaining other Government contracts.

Civilian Army Employee Sentenced for Theft of Government Property

A former civilian employee of the Fort Jackson Post Exchange in South Carolina was convicted of stealing Government property. The employee concealed and retained \$2500 worth of electronic equipment stolen from the exchange where he worked. The employee pleaded guilty to violating 18 U.S.C. 641, and was sentenced to four months imprisonment, to be followed by three years probation.

Making Inquiries on Behalf of a Father-in-Law Can be Injurious to a Federal Employee's Financial Health

The father-in-law of a Department of Commerce employee owned a medical supply company, and was having problems with the Department of Veterans Affairs (DVA) with delays in obtaining a change to his contract. The father-in-law sent the Commerce employee a letter detailing the problems and delays with this contract modification, and asked if he would intervene on his behalf with the DVA. The Commerce employee contacted a colleague at DVA and asked if it would be appropriate for him to forward a copy of this letter to him. According to the stipulation, the DVA employee thought that there would be nothing inappropriate about this, and the Commerce employee did not request any specific action by DVA. Nevertheless, the DVA employee made inquiries about the matter, and the DVA contracting officer gave this matter priority over other pending contract matters and executed the change.

The Department of Justice charged the Commerce employee with a violation of 18 U.S.C. 205, which prohibits officers or employees from acting as an agent for a non-Federal entity to any official of the Federal Government. The Commerce employee denied any wrongdoing, but entered into a civil settlement and agreed to pay \$5,000 to the U.S. Treasury for the telephone call and transmittal of his father-in-law's letter.

If you have any questions raised by any of the above situations, you are invited to contact one of your Ethics Counselors.

Mike Wentink, Rm 7E18, 617-8003

Associate Counsel/Ethics Counselor

Alex Bailey, Rm 7E18, 617-8004
Associate Counsel/Ethics Counselor

Stan Citron, Rm 7E18, 617-8043
Associate Counsel/Ethics Counselor